

## REMARKS

This is a full and timely response to the Advisory Action mailed August 6, 2004 (Paper No. 20040804). Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### 1. Present Status of Patent Application

The Advisory Action indicates that the rejection of pending claims 19, 20, 22, 23, and 26-28 made in the final Office Action mailed March, 12, 2004 is maintained. Specifically, the Office Action rejected independent claim 19 as well as dependent claims 20 – 28 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,308,328 to *Bowcutt et al.* (hereinafter *Bowcutt*). In Applicants' "Fourth Response With Amendments And Remarks" mailed March 12, 2004, Applicants amended dependent claims 22 and 26 to improve grammatical readability, and cancelled dependent claims 21, 24, and 25 without prejudice or disclaimer. The Advisory Action indicates that these claim amendments have been entered. Applicants respectfully traverse all the rejections and any findings of official notice in the final Office Action.

### 2. Response To Objections/Rejections

#### Response To Claim Rejections Based Under 35 U.S.C. § 102(e)

Independent claim 19 and claims 20 – 28, which depend therefrom, were rejected under 35 U.S.C. §102(e) as allegedly being unpatentable over *Bowcutt*. However, in the "Third Response With Amendments And Remarks" mailed January 22, 2004, Applicants amended the priority claim, which now specifies: "This application is a continuation of

U.S. Patent Application Serial No. 08/818,037, now U.S. Patent No. 6,230,203, which was a continuation-in-part of U.S. Patent Application Serial No.'s 08/627,062, now U.S. Patent No. 5,790,806, and 08/738,668, now U.S. Patent No. 5,966,163." Based on the priority claim, Applicants previously asserted that the present application claims priority to at least the March 14, 1997 filing date of the parent application with U.S. Patent Application Serial No. 08/818,037, which has now issued as U.S. Patent No. 6,230,203.

Applicants now assert that the remaining still pending claims 19 – 20, 22 – 23, and 26 – 28 are fully supported by one or both of U.S. Patent Application Serial No. 08/627,062, now U.S. Patent No. 5,790,806, and U.S. Patent Application Serial No. 08/732,668, now U.S. Patent No. 5,966,163, from both of which priority is claimed. Therefore, for claims 19 – 20, 22 – 23, and 26 – 28, Applicants assert a priority date of at least the filing date of U.S. Patent No. 5,966,163, which is October, 16, 1996, and potentially the earlier filing date of U.S. Patent No. 5,790,806, which is April 3, 1996. Based on the continuation-in-part of U.S. Patent Application Serial No.'s 08/627,062 and U.S. Patent Application Serial No. 08/732,668 with priority dates of April 3, 1996 and October 16, 1996 respectively, *Bowcutt* is no longer a 35 U.S.C. § 102(e) reference because the priority date from *Bowcutt* is January 17, 1997.

In particular, support for independent claim 19 may be found in at least the following portions of U.S. Patent No. 5,790,806 to *Koperda* (the '806 patent) to which priority is claimed: col. 4, line 45 through col. 5, line 15 and col. 10, lines 44 – 50.

The Advisory Action alleges that the application is "only a CIP" of the '806 patent, and that the '806 patent does "not disclose monitoring the amount of data 'transferred to and from' a device." (Advisory Action, pg. 2). Without acquiescing to this argument,

Applicants have amended claim 19 to more closely match the language of the '806 patent. Specifically, amended claim 19 includes: "monitoring amount of data transferred across said link and storing data related thereto." This language is fully supported by the '806 patent for at least the reason that the '806 patent discloses that "connection statistics services may be obtained from the link access control unit of each distribution hub" (col. 5, lines 4-5), and that the "statistics may include the number of cells transmitted." (Col. 5, line 8). Additionally, the '806 patent discloses that the types of statistics collected by the Link Access Control about the connection include the "total number of cells transmitted." (Col. 10, line 46). Accordingly, Applicants submit that claim 19, as amended, is fully supported by the '806 patent.

Additionally, support for dependent claims 20 and 22 may be found in at least the following portion of the '806 patent to which priority is claimed: col. 10, lines 44 – 50. Support for dependent claim 23 may be found in at least the following portions of the '806 patent to which priority is claimed: col. 1, lines 51 – 53; col. 2, lines 23 – 24; col. 4, line 52 through col. 5, line 13; and col. 9, lines 1 – 10.

In addition, support for dependent claim 26 may be found in at least the following portions of the '806 patent to which priority is claimed: col. 13, lines 30 – 36 and col. 17, lines 8 – 10. Support for dependent claim 27 may be found in at least the following portions of the '806 patent to which priority is claimed: col. 10, lines 40 – 42 and col. 17, lines 13 – 14. Furthermore, support for dependent claim 28 may be found in at least the following portion of the '806 patent to which priority is claimed: col. 10, lines 40 – 51.

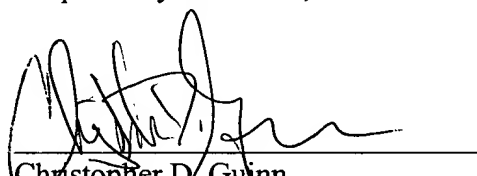
Therefore, Applicants submit that independent claim 19 and dependent claims 20, 22 – 23, and 26 – 28, which depend from claim 19, are allowable over *Bowcutt* for at least the foregoing reasons.

### CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed and that the pending claims of 19 – 20, 22 – 23, and 26 – 28 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 20-0778.

Respectfully submitted,



Christopher D. Guinn  
Registration No. 54,142

**THOMAS, KAYDEN,  
HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500